REMARKS

In the previous office action, the Examiner objected to the drawings, asserting that a micropore developing filler must be shown. A replacement sheet of drawings pursuant to 37 CFR §1.121(d) was enclosed to address this objection. The current office action contained no acknowledgement of the replacement sheet of drawings, however. Applicants respectfully request that the Examiner or draftsman accept or object to the sheet of drawings. If another copy of the replacement sheet is needed, please let us know.

The Examiner has repeated his rejections from the previous office action, asserting that claim language that says that a laminate is thermally bonded is a process limitation and given no weight in an apparatus claim. Applicants strongly disagree with the Examiner's position but in the interest of furthering prosecution request that the independent claims 1 and 16 be amended to affirmatively claim a laminate having thermal bond points, thus removing the process limitation.

The Examiner has rejected claims 1, 4, 5, 6, 7, 9 and 10 under 35 USC §103 as unpatentable over Wadsworth (WO 9609165 A1) in view of LaVon (US patent 5,938,648). The Examiner asserts that Wadsworth discloses the invention but that Wadsworth does not provide a nonwoven fabric treated with a surfactant, and further that LaVon provides this missing element. Applicants respectfully disagree. Wadsworth provides an adhesively bonded laminate, not a laminate with thermal bonds. As the Application points out (page 4,

lines 9 – 21), thermal bonding of a surfactant treated nonwoven and a film can result in some of the surfactant being driven into the film, ultimately resulting in the failure of the laminate to pass the blood strikethrough test. The Application further notes (page 9, lines 22 – 25) that adhesive bonding is commonly used to avoid the problem of heat driven surfactants reducing the surface tension of liquids in the microporous film. Independent claims 1 and 16 have been amended to clearly and affirmatively claim that the Applicants' laminate has thermal bonds.

An adhesively bonded web having LaVon's surfactant treatment would not result in the production of Applicants' invention. Applicants' invention as claimed requires that the film and nonwoven have thermal point bonds. These point bonds allow for the avoidance of adhesive, which can be a somewhat challenging material to use in a manufacturing setting and produces a better laminate. Applicants have overcome a long-acknowledged problem in the industry and have created a barrier fabric having good breathability that can be manufactured using common thermal bonds. For these reasons, Applicants assert that neither Wadsworth or LaVon, alone or in combination, teach or suggest the laminate as defined by Applicants' claims and therefore ask that this rejection be reconsidered and withdrawn.

The Examiner has rejected claims 16, 19 - 24 and 28 under 35 USC §103 as unpatentable over Wadsworth (WO 9609165 A1) in view of LaVon (US patent 5,938,648) as applied above, and further in view of Langley (US patent pub. 2003/0124324 A1).

Wadsworth and LaVon have been discussed above. Langley adds the aspect of thermal bonding between a film and nonwoven, which, though superficially somewhat similar

to Applicants' invention, is significantly different. Langley's first step is a film that is extrusion coated onto a nonwoven fabric and so does not have point bonds. It is important to note that extrusion coating generally takes place at temperatures that are lower than that of thermal point bonding. Langley then bonds this two layer laminate to another extrusion coated film/nonwoven laminate (claim 1 and paragraph 0026). Langley's final bonded product, therefore, is a four layer laminate and the bonding may be done adhesively, thermally or ultrasonically. Langley notes (paragraph 0026) that though "neither ply may consistently pass the ASTM F1671 test when tested as an individual layer, the resulting composite consistently passes ASTM F1671." Langley's four layer laminate is thus very different from Applicants' surfactant treated nonwoven bonded to a microporous film with thermal point bonds.

Applicants note also that Langley does not teach or suggest the use of surfactants on the nonwoven web. The combination of LaVon's use of surfactants with Langley, as the Examiner applied, is quite problematical. As pointed out in the Application at page 4, thermally bonding a film and a surfactant treated nonwoven web drives the surfactant into the film, thus reducing the barrier properties substantially. Any assertion that the combination of Langley with LaVon would result in a laminate that would pass ASTM-F1670 would be pure speculation.

Applicants respectfully request that this rejection be reconsidered and withdrawn.

The Examiner has rejected claims 2, 11, 12, 15, 17 and 25 under 35 USC §103 as unpatentable over Wadsworth (WO 9609165 A1) in view of McCormack (US patent 6,653,523). These claims depend either directly or indirectly from claims 1 and 16 and recite

the present invention in varying scope. Applicants have herein discussed the Wadsworth reference in relation to claims 1 and 16. Claims 2, 11, 12, 15, 17 and 25 are similarly distinguishable not only because of the patentability of the independent claims but also because of the combination of the subject matter of each of the dependent claims with their independent claim which makes each claim further distinguishable, and which is not taught or suggested by the cited references, singly or in combination. More particularly, though McCormack does indeed teach the use of Catalloy® polymers and EVA, the combination of McCormack and Wadsworth would not result in Applicants' invention because Wadsworth does not teach a surfactant treated nonwoven fabric bonded to a microporous film using thermal point bonds, where the finished laminate passes ASTM F1670-95.

The Examiner has rejected claims 13, 14, 26 and 28 under 35 USC §103 as unpatentable over Wadsworth (WO 9609165 A1) in view of Tucker (US patent 6,638,636). Again, these claims depend either directly or indirectly from claims 1 and 16 and recite the present invention in varying scope. Applicants have discussed the Wadsworth reference in relation to claims 1 and 16. Claims 13, 14, 26 and 28 are similarly distinguishable not only because of the patentability of the independent claims but also because of the combination of the subject matter of each of the dependent claims with their independent claim which makes each claim further distinguishable, and which is not taught or suggested by the cited references, singly or in combination. Tucker's teaching of the use of metallocene polymers in combination with Wadsworth's adhesively bonded web would not result in Applicants' invention.

It is respectfully submitted that the applied references are different in construction from each other and from the present invention, and that the combination of these references would still not suggest the crux of the instant invention. None of the cited references, either alone or in combination, disclose a composite construction which has the same or similar distinctive combination of features as set forth and claimed and it is this combination of elements which is clearly and patentably distinguishable over the cited art. All claims as requested to be amended are believed to be patentably distinguishable over the cited references and in allowable condition.

Applicants respectfully request that the amendments of the claims be entered and that the rejections of the claims be reconsidered and withdrawn in light of the preceding amendments and remarks.

Should the Examiner have any issues he would like to discuss in order to facilitate the progression of this application, he is encouraged to call the undersigned at (770)-587-7273.

Respectfully submitted,

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